Court No.1

Civil Misc. Writ Petition No. 503 of 2001 (S/S)
(Old No. 40017 of 1993).

Urbish Chandra Mishra ……. Petitioner.

Versus

State of U.P. through
Principal Secretary, Department
of Education and three others. …… Respondents.

Hon'ble P .C. Verma, J.

The petitioner was appointed as Lecturer on 14.7.1955 in the Intermediate College, Kapkote (District-Almora), which was an aided institution and served there till 04.7.1966. The petitioner left this institution and joined the Kisan Krishi Uchchatar Madhyamik Vidyalaya, Gurada, District-Almora and served there from 05.7.1966 to 30.6.1967 as Principal. Thereafter he joined in Sri Narayan Swami Inter College, Ramgarh (District-Nainital) on 01.7.1967 and served in the said institution upto 24.9.1967. On 25.9.1967, the petitioner joined as Lecturer in Pant Nagar Intermediate College, Pant Nagar, District-Nainital and served there till 03.2.1977 and on 04.2.1977 he joined in the Intermediate College, Devlikhet (District-Almora) as Principal and served there till 28.2.1978. Thereafter the petitioner was taken in the Government service and he served as Lecturer in the Government Inter College w.e.f. 01.3.1978 and contributed in the Provident Fund Scheme till 31.1.1992. He superannuated on 31.1.1992.

The grievance of the petitioner is that though the period of service from 14.7.1955 to 04.7.1966 have been counted for the pensionary benefits, the period from 05.7.1966 to 24.9.1967, during which period he rendered his services in the two institutions, namely, Kisan Krishi Uchchatar Madhamik Vidalaya, Gurada (District-Almora) and Sri Narayan Swami Inter College, Ramgarh (District-Nainital) has not been counted. This period has rightly not been computed for the pensionary benefits as at that time contributory Provident Fund Scheme was not available. Therefore, the petitioner gives up his claim for the purpose of the pensionary benefits. The petitioner claims that the period from 25.9.1967 to 28.2.1978 should have been counted for the purposes of pensionary benefits in view of the Government Order dated 13th June, 1979, contained in Annexure No.1 to the writ petition and the subsequent Government Orders.

In the counter affidavit, it has specifically been stated that since the deductions made were not deposited in the Government Treasury for this period by the petitioner, therefore, this period could not be counted in view of the Government Order dated 13th June, 1979.

The Govt. Order dated 13th June, 1979 was issued to give benefit to those teachers who were earlier in the private aided institutions and were subsequently taken into Government service to serve the various Govt. Colleges and by said Government Orders it has been provided that the service shall be counted for the purpose of pensionary benefits provided the amount deposited in the contributory provident fund scheme alongwith interest is transferred to the

Government Treasury within one year either from the date from which he was taken into Government service or from the date of issue of Government Order. In the present case, admittedly the amount was not transferred in the Government Treasury, which the petitioner contributed in the Provident Fund Scheme. Therefore, the benefit was not given to the petitioner.

Leaned counsel for the petitioner submits that the petitioner was not at fault in not transferring the aforesaid amount to the Government Treasury. He further submits that due to belated service of the Government Order, the petitioner moved an application on 03.7.1980, by which he offer permission for the same amount to be deposited in the Government Treasury. The request of the petitioner was not accepted for the reasons that the request was made after delay of about one month.

Having regard to the facts and circumstances of the case, I am of the opinion that one month's delay in special circumstance should have been condoned in the case of petitioner and his offer ought to have been accepted and the petitioner should have been required to deposit the amount, so that he could be given pensionary benefits as envisaged in the Government Order dated 13th June, 1979. From the perusal of the representation dated 03.7.1980, it is evident that it was sincere and honest offer made by the petitioner which could not be said that the petitioner chose to offer the amount afterthought. In these circumstances, the respondents are directed to accept the offer of the petitioner to deposit entire amount alongwith interest and petitioner shall be permitted to deposit the same in the Government Treasury within a period of two months from the date of production of certified copy

of this order. The Institutions shall also transfer their share in the Government Treasury within aforesaid period and in case such deposits are made within stipulated period, the period of service rendered by the petitioner in the aided institutions shall be counted for pensionary benefits.

The writ petition is disposed of accordingly.

P.C. Verma, J.

28.9.2001
P.Singh